

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

JONATHAN LEE RICHES,

Petitioner, : Case No. 3:08-cv-236
-vs- : District Judge Walter Herbert Rice
Respondents. : Magistrate Judge Michael R. Merz

SHALANE FLANAGAN, et al.,

Respondents.

REPORT AND RECOMMENDATIONS

This habeas corpus case is before the Court on Petitioner's Notice of Appeal (Doc. No. 6). An unsuccessful habeas corpus petitioner cannot appeal without a certificate of appealability. 28 U.S.C. §2253 Petitioner should be denied a certificate for the following reasons:

1. The Court of Appeals lacks jurisdiction over this appeal as the Notice was filed May 21, 2012, more than three years after judgment.
2. Petitioner never objected to the Report and Recommendations (Doc. No. 3) which recommended dismissal of this case for failure to state a claim upon which habeas corpus relief could be granted and for failure to file an amended petition conforming to the Rules Governing § 2254 Cases. He is therefore precluded from raising any issues on appeal. *Thomas v. Arn*, 474 U.S. 14 (1985).

3. Petitioner has neither paid the appellate filing fee nor requested leave to proceed in forma pauperis.

May 22, 2012.

s/ **Michael R. Merz**
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed.R.Civ.P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Pursuant to Fed.R.Civ.P. 6(e), this period is automatically extended to seventeen days because this Report is being served by one of the methods of service listed in Fed.R.Civ.P. 5(b)(2)(B), (C), or (D) and may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See, United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 14 (1985).